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UNITED STATES DISTRICT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-10106 T

ZHANNA CHIZHIK,
Plaintiff,

v.

SEA HUNT BOATS, INC., TROPICLAND
MARINE AND TACKLE, INC.,
Defendant.

DEPOSITION of AMIR LASHGARI, a witness called o
behalf of the Defendant Sea Hunt Boats, Inc., t en
pursuant to the applicable provisions of the
Massachusetts Rules of Civil procedure, before hn
F. Kielty, a Notary Public in and for the
Commonwealth of Massachusetts, at the Law Offic of
Murphy, Hesse, Toomey & Lehane, 300 Crown Colon
Drive, Quincy, Massachusetts, on Monday, May 16
2005, commencing at 2:20 p.m.

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1 APPEARANCES

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21
22
23
24

1 Q. Did the boat, to your observation, appear to
2 be functioning properly on the way out to the
3 fishing area?

4 A. It seems pretty nice.

5 Q. On the parts of your trip where the waves
6 were choppy or where the sea conditions were choppy,
7 about how high were the waves that you saw?

8 A. I'm really bad with measurements. I'm bad
9 with measurements and time. As far as -- I mean it
10 wasn't anything that we were concerned about. As
11 far as the size of them, I -- just regular waves
12 normal waves. I mean, I don't know the size of them.
13 When you say -- with your question, are they -- do
14 you mean the boat -- the waves were continuous, or
15 the waves were high? What is the question? I'm not
16 understanding that.

17 Q. That is fair enough. I am glad you said
18 something Mr. Lashgari. If you are asked anything
19 you don't understand, I want you to let me know --

20 A. Uh-huh. (Indicates affirmatively).

21 Q. -- all right? Okay?

22 A. Yes.

23 Q. Have you ever heard of people speak about
24 three-foot swells or two-foot swells? Is that

1 Q. For how long were you waiting for Mr.
2 Zilberman after you arrived there?

3 A. After I took my line in, another ten,
4 15 minutes.

5 Q. Do you recall anything else that happened
6 before you found yourself being turned upside down?

7 A. Negative.

8 Q. Did you see a wave approaching?

9 A. I didn't. I had read that I had said that
10 it was a big wave at one point, but as I said, to
11 me, everything at that time was huge. I mean,
12 everything for me was huge. Just the fact that
13 turned in the water and turned around, that's --
14 that to me was huge. So as far as seeing a wave
15 no, I did not see a wave that would come and hit
16 us.

17 Q. Your testimony is you did not see a wave
18 that came and hit your boat before you were pitched
19 in the direction you said?

20 A. Correct. Well, my testimony is that I
21 had -- I believe I had said there was a 20-foot wave
22 at one point, but in the excitement of the matter,
23 as I said, everything was huge. So there was no
24 20-foot wave.

1 But the wave that hit us, what I -- the me
2 I remember I was in the water, he's got his line
3 I'm talking to Chizhik, next thing, the boat turned,
4 and that's when I went in the water. (Witness
5 indicating.)

6 Q. So you didn't see a 20-foot wave?

7 A. Correct.

8 Q. Did you see any wave approaching your boat
9 before you turned and went in the water?

10 A. Just nothing out of the ordinary, nothing
11 out of the ordinary. At that time when it
12 happened -- when I think about it, nothing out
13 the ordinary.

14 Q. Who did you tell that you saw a 20-foot
15 wave?

16 A. I don't recall, could be a reporter. I did
17 talk to a reporter, and I don't recall who I said
18 that to.

19 Q. You did speak with a number of newspaper
20 reporters after the incident, right?

21 A. Not a number. I believe I spoke with a
22 person, and some people who would just call, you
23 know, calling left and right.

24 Q. After this accident, you spoke with a Boston

1 Globe reporter named John Ellement, correct?

2 A. I'm thinking if I spoke to him in person or
3 over the phone, but I don't remember. But the name
4 sounds familiar, yes.

5 Q. After you spoke to one or more reporters
6 there were newspaper articles printed on what
7 happened, correct?

8 A. Correct.

9 Q. And did you read any of the articles that
10 talked about what had happened?

11 A. The first two, three lines, yes, but the
12 article in the Globe, I read it in whole, yes.

13 Q. That was an article called, "Clinging To A
14 Hope," right?

15 A. I don't remember the name of the article.

16 MR. BREEN: That is it.

17 MR. KAPLAN: Okay.

18 MR. BREEN: That is actually your copy. Do
19 you have it already?

20 (Discussion off the record.)

21 BY MR. BREEN:

22 Q. Why don't I just make sure I didn't write on
23 this one, Mr. Lashgari. Mr. Lashgari, I am showing
24 you a document that is a copy of the text of ar

1 article on boston.com called, "Clinging To A Hop "
2 It was, according to this, reported and publishe on
3 page A1 of the Metro/Region section on May 27th
4 2003. I would ask you to take a moment, please, and
5 look at that article and --

6 MR. KAPLAN: Wait. Is there a question or
7 him?

8 MR. BREEN: Yes.

9 MR. KAPLAN: I object.

10 BY MR. BREEN:

11 Q. My question is, first off, have you ever
12 seen this article before?

13 A. I have seen it, but I haven't read it
14 thoroughly.

15 Q. If you would take a moment, please, and read
16 it to yourself?

17 A. Do I have to read the whole thing, beca e
18 I usually don't have patience to read the -- I
19 mean, after the first four or five lines, --

20 MR. KAPLAN: Well, hold on.

21 THE WITNESS: -- I can tell --

22 MR. KAPLAN: Hold on. Hold on. I don'
23 think he has asked you a question. He just sai
24 read it.

1 THE WITNESS: Sure.

2 Okay.

3 BY MR. BREEN:

4 Q. Have you had a chance to read the article to
5 yourself, Mr. Lashgari?

6 A. Yes.

7 Q. Turning to page 2, if you would, please
8 near the bottom, there is a paragraph just about
9 seven lines up from the bottom that begins,
10 "Lashgari said the water was rough."

11 MR. KAPLAN: Objection.

12 BY MR. BREEN:

13 Q. Do you see that paragraph?

14 A. Yes.

15 Q. Do you recall speaking with a Boston Globe
16 reporter named John Ellement?

17 A. As I said, the name sounds familiar, yes.

18 Q. Do you recall telling a Boston Globe
19 reporter that the water was rough but no more than
20 you had experienced the other days?

21 A. I don't recall precisely saying that, --

22 Q. Do you recall --

23 A. -- but --

24 Q. I'm sorry. Go ahead.

1 A. But if it's -- if it's here, you're telling
2 me I said it, I must have said it.

3 Q. My question is, sir, whether you said that
4 or not?

5 A. I don't recall it.

6 Q. Do you recall telling a Boston Globe
7 reporter that you, Mr. Zilberman, and Mr. Chizhik
8 were fishing on uneventfully when a wave Lashgar
9 estimated to be 20-feet tall hit them and capsized
10 their boat?

11 MR. KAPLAN: Objection. Objection to the
12 whole line, so that I don't interfere with his
13 interrogation.

14 MR. BREEN: Thank you.

15 BY MR. BREEN:

16 Q. Do you recall telling a Boston Globe
17 reporter that you were fishing uneventfully when a
18 wave that you estimated to be 20-feet tall hit you
19 and capsized the boat?

20 A. There is -- there was no such a thing as a
21 21-foot wave. I mean, there were no 21-foot waves
22 over there. If the reporter put it, I don't know,
23 as a matter of excitement or he's fishing for a
24 story, but I don't recall. Now, that I'm sitting

1 here after the fact of the accident, I do not recall
2 a 20-foot wave at all. If it was said, the reporter
3 put it down -- or no, I don't recall it. I don't
4 recall a 21-foot wave at all, not that day. If
5 there was a 20-foot wave, we wouldn't be there.

6 Q. Sir, my question is a little bit different.
7 Do you recall telling a reporter that there was
8 20-foot -- a wave estimated at 20-feet tall that hit
9 and capsized your boat?

10 A. I don't recall it.

11 Q. Did you read this article when it was
12 published?

13 A. As I told you, I usually read four or five
14 lines, and I get tired. And I just put it --
15 because there was no sense reading a story that
16 went through. No, I did not read it, and this
17 the first time that I'm actually getting a chance to
18 read the whole thing.

19 Q. When you saw this article in the newspaper
20 on or after May 27th of 2003, did you read the
21 portion of the article that said that you had
22 estimated the wave that hit your boat to be 20-feet
23 tall? Do you see that?

24 A. As I said, I don't recall reading the

1 article.

2 Q. Do you recall reading that part of it
3 within the part of the article that you read the
4 day?

5 A. I don't recall it, no. This is the first
6 time I'm seeing here a 20-foot wave that I've seen
7 here, that in print that I'm seeing, but I don't
8 recall it.

9 Q. Do you recall ever telling anyone after his
10 accident happened that you saw a wave that you
11 estimated to be 20-feet tall hit the boat at the
12 time that it capsized?

13 A. No, because there was -- there was no
14 21-foot wave. There was no wave that big.

15 Q. Sir, I just want to make sure that we are
16 not making -- I am not missing a distinction. This
17 article talks about a 20-foot wave, and you said
18 21. Are we talking about the same thing?

19 A. Actually, I'm -- we're talking about the
20 same thing, 20. No, there was no wave that big. I
21 am five-foot nine, and if it was a 20-foot wave
22 that would be three times bigger than me. No, there
23 was no 20-foot wave. We weren't on Titanic that
24 day.

1 Q. And lastly, sir, do you recall telling
2 anyone that a wave that you estimated to be 20-feet
3 tall had hit your boat at any time after this
4 accident?

5 A. Sitting here right now talking to you, sir, I
6 do not recall.

7 Q. Do you recall seeing a large wave heading
8 toward your boat before the boat capsized?

9 A. No, I do not.

10 Q. Do you recall seeing any wave heading
11 toward your boat immediately before the boat
12 capsized?

13 A. Nothing out of the ordinary. There were
14 continuous waves that were there in the ocean that
15 were there in the ocean but nothing out of the
16 ordinary, no.

17 Q. How high were the waves that you would
18 consider to be ordinary that you observed that day?

19 A. I think I have told you over and over I am
20 terrible with measurement. You tell me how far is
21 ten yard, I wouldn't be able to tell you how far that
22 it is. So I don't recall. As far as feet
23 measurements, I don't recall it, sir, and I'm being
24 very sincere about that. You keep on banging about the

1 same question, but I'll tell you as far as the size
2 of the wave I don't know.

3 Q. All I can do, Mr. Lashgari, is ask you
4 questions and get --

5 A. Sure.

6 Q. -- your answer, all right? So you are
7 totally unable to estimate the size of the waves
8 that you saw in the area?

9 A. Correct.

10 Q. Okay.

11 A. I think that's a question -- never mind

12 MR. KAPLAN: Wait for a question now.

13 THE WITNESS: Okay.

14 BY MR. BREEN:

15 Q. Do you recall talking to a reporter from the
16 Boston Herald concerning your accident?

17 A. What's his name?

18 Q. Her name would be Jessica Heslam.

19 A. Not in person, no.

20 Q. Do you recall speaking with a reporter named
21 Jessica Heslam by telephone?

22 A. At this time that I'm talking to you, that
23 name doesn't ring a bell.

24 Q. Do you recall telling a reporter from the

1 Boston Herald that a giant wave had crept up and
2 flipped your boat?

3 A. What's the name of the reporter?

4 Q. Jessica Heslam.

5 A. I don't recall that, no.

6 Q. Do you recall telling anyone from the Boston
7 Herald that a giant wave had crept up and flipped
8 the vessel?

9 A. No, I don't.

10 Q. Did you ever give a statement about what had
11 taken place anytime after the accident?

12 A. I believe so. I'm not sure if it was
13 the -- I'm not sure who it was, but yes. I'm not
14 sure if it was wildlife or insurance company.
15 don't know.

16 Q. Do you recall ever meeting or speaking with
17 someone named Brian Morrissey?

18 A. Same -- name sounds familiar, but I don't
19 recall speaking to him.

20 Q. If I were to ask if you know or have ever
21 met with or spoken with Brian Morrissey from Marine
22 Safety Consultants, would that refresh your memory
23 at all?

24 A. Marine Safety Consultant, yes, that does

1 but that person's name does not.

2 Q. Do you recall speaking with someone from
3 Marine Safety Consultants on June 24th of 2003 in
4 order to give that person a statement?

5 A. I recall I talked to somebody, but as far as
6 that specific date, no.

7 Q. Do you recall when it was that you talked
8 with somebody about what had taken place on the day
9 of your accident?

10 A. Are you looking for a time frame, or are you
11 looking for a date, because I don't remember?

12 Q. If you are able to give a time frame, that
13 would be helpful.

14 A. I would say it was maybe -- I don't know --
15 a couple of weeks after the accident.

16 Q. Is your date of birth July 4th of 1962?

17 A. Yes, sir.

18 Q. Is your Social Security number 026-58-066?

19 A. Yes, sir.

20 Q. Do you recall telling Mr. Morrissey that you
21 had seen a large wave heading toward the boat before
22 the boat capsized?

23 A. I'm sorry. Who is he?

24 Q. Do you recall telling Brian Morrissey c

1 Marine Safety Consultants that you had seen a large
2 or giant wave heading toward your boat before the
3 boat capsized?

4 A. Negative. Once again, I repeat myself.
5 There was no huge wave that day. There was no
6 20-foot wave. You can check with the Navy. You can
7 check with the Coast Guard. There was no 20-foot
8 wave. I don't know if the myth came in from a
9 reporter trying to put this story in there or what
10 have you, but there was no huge wave that hit us
11 that day.

12 Q. Mr. Lashgari, I understand your testimony in
13 that respect. The questions I am asking are with
14 respect to what you told the person from Marine
15 Safety Consultants.

16 A. I don't recall if I've said that.

17 Q. Did you tell Mr. Morrissey of Marine Safety
18 Consultants on June 24th of 2003 that your boat had
19 been hit by a "very big one," referring to a wave?

20 A. I was hit with a big emotional accident that
21 I went down, and as I said, once again, in that time
22 span when it happened to me, everything was huge. I
23 don't know if you have ever been in that situation
24 or not. My life was in front of me. That was huge.

1 That was huge. I can just feel it in my bones r ht
2 now, that my life that day was almost gone.

3 Anything -- if you came and you helped n
4 that day, you would have been my God. Everythir
5 was huge to me that day.

6 So if I had said the big one, yeah, that was
7 my life that was going. So I don't know about
8 measurements. I don't know about thing. I thin
9 those are the information you need to talk to tl
10 Coast Guard about, the size of the waves that da .

11 I am not an expert. I'm terrible with
12 measurement. I am not good with time span, but
13 know that day I almost died. I almost died.

14 Something had to be wrong with that God amn
15 boat that day. Something had to be wrong becau
16 the -- I'm a -- I am a good judge of situation. If
17 the situation was that bad, we would have not g e
18 in. We wouldn't have been there. I wouldn't h e
19 been here talking to you if this situation was
20 something that I wouldn't have felt comfortable
21 with. So I don't -- I mean, what's the questic
22 again?

23 Q. My question, Mr. Lashgari, is whether y i
24 told Mr. Morrissey of Marine Safety Consultants that

1 your boat was hit with a "very big one," referring
2 to a wave?

3 A. Sitting here talking to you right now, I
4 don't recall it. I may have. I may have not, but I
5 don't recall saying that. And if -- there's --
6 was impossible. There was no huge wave. So I don't
7 know where this statement came from over there, but,
8 no, I don't recall it, sir.

9 MR. BREEN: Just off the record for a
10 minute.

11 (Brief recess.)

12 MR. BREEN: Can we mark that article,
13 please?

14 THE REPORTER: Sure.

15 (Defendants' Exhibit No. 1 was marked for
16 identification.)

17 (Discussion off the record.)

18 BY MR. BREEN:

19 Q. Sir, I have marked this article that we
20 talked about earlier, The Boston Globe article
21 number 1, okay?

22 A. Correct.

23 Q. And it is your testimony you have never read
24 the whole article before today?

1 A. Correct. To be honest with you, I didn't
2 read the whole thing today either.

3 Q. You had the opportunity to read the whole
4 thing if you chose to, though, right?

5 A. Correct.

6 Q. And you read the part I inquired about there
7 at the bottom of the second page when I asked those
8 questions --

9 MR. KAPLAN: Okay. Now, I objected to all
10 of this line of questioning. However, if there is a
11 question in front of you, answer it. If there is no
12 question, just don't talk about it.

13 THE WITNESS: Sure.

14 BY MR. BREEN:

15 Q. Did you read this, the part on the second
16 page that I inquired about at the time I asked you
17 to look at the second page?

18 A. That section, yes.

19 Q. On the occasion, sir, that you spoke with
20 the investigator from Marine Safety Consultants, you
21 were aware that the interview was being recorded,
22 right?

23 A. If it was being recorded, I was -- probably
24 was aware of it, yes.

1 Q. Have you ever seen a transcription of the
2 interview?

3 A. Negative, sir.

4 MR. BREEN: Would you mark this, please?

5 THE REPORTER: Sure.

6 (Defendants' Exhibit No. 2 was marked for
7 identification.)

8 MR. BREEN: This is what we got on --

9 MR. KAPLAN: Let the record show that we
10 have all just received it today.

11 MR. BREEN: From Mr. Zilberman's attorney.

12 MR. KAPLAN: Right.

13 MR. BREEN: Correct. Well, I know the
14 attorneys have received it, but I am going to
15 inquire about Mr. Lashgari.

16 BY MR. BREEN:

17 Q. Sir, have you ever seen -- I am going to
18 show you a document that is a 20-page document
19 have marked as Exhibit No. 2. That is labeled
20 the top and purports to be the "Transcribed
21 Statement of Amir Lashgari," and I will ask you to
22 take a moment and look at that, please? My question
23 for you, sir, when you have done so is whether you
24 have ever seen that document before?

1 A. Negative, sir. I've never seen this before.

2 Q. Do you wish to take a few minutes to look at
3 it, or can we proceed?

4 A. I don't have really -- it's 20, 20 pages.

5 MR. BREEN: I am trying to afford the
6 courtesy, David, of letting him look at it.

7 MR. KAPLAN: Say that again?

8 MR. BREEN: I am just affording the courtesy
9 if he wants to look at it for a couple of minutes.
10 I am going to inquire about it next. It is really
11 whatever he wants to do. I can ask particular
12 questions.

13 BY MR. BREEN:

14 Q. Mr. Lashgari, looking at the first page at
15 the top, it says at the beginning, "My name is
16 Brian Morrissey from Marine Safety Consultants, and
17 I am interviewing Mr. Amir Lashgari regarding the
18 boat accident which occurred on or about May 26
19 2003 involving Greg Zilberman's boat in Boston
20 Harbor."

21 Sir, does that refresh your recollection at
22 all about who Mr. Morrissey is?

23 A. I --

24 MR. KAPLAN: Again I want to -- just before

1 you answer, I want to put on my objection to thi
2 entire line of that questioning regarding this
3 alleged statement.

4 Go ahead.

5 THE WITNESS: What's the question, sir,
6 again?

7 BY MR. BREEN:

8 Q. Just having the opportunity to review th
9 document that begins, "My name is Brian Morrissey
10 from Marine Safety Consultants," does that refresh
11 your recollection at all as to who Mr. Morrissey
12 is?

13 A. I remember talking to somebody from Marine
14 Safety Consultants, but I don't recall who Brian
15 Morrissey is as a person. It was just -- and I
16 thought -- I thought the accident happened on May
17 25th. It says, 26th here. I'm not --

18 Q. You were not involved in any accident on
19 May 26th, were you, sir?

20 A. I'm sorry?

21 Q. You weren't involved in an accident on May
22 26th, correct?

23 A. What -- what do you mean?

24 Q. You weren't involved in a boating accident at

1 on May 26th, right?

2 A. The only boating accident I was involved in
3 my life was the one that we're talking about.

4 Q. Thank you.

5 The next portion states, "Today's date is
6 June 24, 2003."

7 Does that refresh your recollection at all,
8 sir, as to when you met with the individual from
9 Marine Safety Consultants?

10 A. If it says June 24th, it must have been June
11 24th, but I don't remember.

12 Q. On the occasion that you met with the
13 individual from Marine Safety Consultants were you
14 asked a number of questions about what had taken
15 place?

16 A. I would -- I would assume so, yes. Yes.

17 Q. Do you remember being asked questions, sir,
18 by the person from Marine Safety Consultants about
19 what had taken place on the day of your boating
20 accident?

21 A. I don't recall details, but I recall that I
22 gave a statement.

23 Q. Sir, if you turn please to page 7?

24 A. Okay.

1 Q. Beginning if you would, please, sir, with
2 the third question from the top. You can see that
3 it is the third cube in the left column.

4 A. Uh-huh. (Indicates affirmatively).

5 Q. Where it begins "The wave action," I would
6 ask you to read down for three questions and three
7 answers ending with, "But it wasn't that big you
8 know."

9 MR. KAPLAN: Well, I am going to object to
10 another -- you know, I'm sure Mr. Lashgari can read.
11 If you have a question from this alleged -- I don't
12 know what it is, but you can ask him the question,
13 but if you are going to ask him to read, he can
14 read.

15 MR. BREEN: Are you going to make objections
16 to form by continuing to give --

17 MR. KAPLAN: Okay.

18 MR. BREEN: -- speaking objections, or

19 MR. KAPLAN: All right.

20 MR. BREEN: -- are you going to let me do
21 my inquiry?

22 THE WITNESS: Okay. What's the question
23 sir?

24 BY MR. BREEN:

1 Q. The question, sir, I am going to ask you
2 questions about the third question from the top, and
3 I can read it aloud to you, or you can look at it
4 yourself. My question will be --

5 A. Could you please read it for me, sir?

6 Q. I certainly will.

7 A. Thank you.

8 Q. Sir, beginning with the portion of page
9 which begins, "QUESTION: The wave action...where
10 were the waves hitting you? What side of the boat?

11 "ANSWER: The waves were hitting from this
12 side," and it is indicated in parens, "(pointing to
13 the diagram)."

14 "QUESTION: That is what they call the
15 starboard side or the right side of the boat.

16 "ANSWER: The right side. That's it.

17 "QUESTION: How big were they?

18 "ANSWER: Not that big. We were just, we
19 would rock and roll, kind of rocking, but it wasn't,
20 it wasn't that big until we got hit one very big
21 one, but before that they weren't that big, then you
22 know, I have a fear of dying if the waves are big,
23 you know get me out of here, but it wasn't that big
24 you know."

1 Do you recall giving that answer to Mr.

2 A. I don't.

3 Q. -- Morrissey's question?

4 A. I don't recall it, no.

5 Q. On page 7 as well, sir, near the bottom
6 beginning with the question --

7 A. Uh-huh. (Indicates affirmatively).

8 Q. -- "To Shizhik," do you see where it says
9 that, sir?

10 A. Yes, sir.

11 Q. In response to that question, did you tell
12 Mr. Morrissey, "Yes, yes...I was watching was G g
13 was doing as he was fishing and I went to talk
14 him and I saw this wave that was this huge, hug
15 wave," and in parens, "(Phone rings. He shuts
16 off), close paren. This big one that I would say
17 that when I looked at it, it was taller than me
18 coming at us, not immediate at the point of impact,
19 but when I looked at it, good I would say, I don't
20 know about eight, nine feet...I'm not sure, I want
21 to say, it was a big one."

22 Do you recall telling Mr. Morrissey that in
23 your interview with him?

24 A. I don't recall saying that. Once again I

1 keep on saying that there was no nine-, ten-foot
2 wave. That day when I turned -- when I'm standi
3 talking to Chizhik for a second, next thing, my ad
4 is in the water. I'm trembling. I'm seeing dea
5 in front of me. Everything was huge, but that d
6 there was no wave. There was no wave that was t at
7 high.

8 If I had said it, if you have it here th : I
9 said it, it's out of excitement, out of somethir
10 you've never experienced in your life before, bu I
11 don't recall saying those things. I don't. I r y
12 have said that, but I don't recall. Sitting her
13 with you, I don't recall saying a big wave, the ne
14 wave that hit us. No, I do not recall that at l,
15 sir.

16 Q. Do you deny telling Mr. Morrissey that
17 big --

18 A. I'm not deny -- I'm not denying, or I'm ot
19 accepting. But I'm saying I do not recall tell g
20 him that. He talked to me that --

21 MR. KAPLAN: Enough. Enough.

22 THE WITNESS: Thank you.

23 BY MR. BREEN:

24 Q. Sir, with the next question, did you te

1 Mr. Morrissey in response to the question, "And w
2 tall are you," did you give the following answer
3 "I'm 5'9". It was a big one. I mean I saw that nd
4 I said Oh My Jesus...I mean I saw that and it ju
5 hit us, it just hit us and the next thing I know 'm
6 under a boat and I didn't even feel...from the t ie
7 when I saw that, that is all I remember. I mean
8 have tried over the past three or four weeks, I ave
9 tried sometimes I am driving, I have stuff comir
10 back to me and stuff. A lot of things wasn't coing
11 to me before...I cannot remember anything from t e
12 time after I saw the big one. The next thing I
13 remember the boat was flipped over and I am
14 underneath in the air pocket over there, and I ar
15 like echoes..."

16 Did you give that answer to Mr. Morris ?

17 A. Once again, I don't recall. See, you k p
18 on asking me questions about the time frame. I
19 don't recall any of those things. I don't reca .
20 If you put Mr. Morrissey here, I wouldn't know o
21 he is. So I don't recall saying that, sir.

22 Q. Thank you.

23 Going to page 8, sir, about midway down the
24 page, when Mr. Morrissey asked "Was that the fi st

1 abnormally larger wave that you guys encountered
2 that day," did you tell him, "Yes, yes, that's t
3 first one that I seen like that. Coming in you
4 know, now that I think about it, it was like tha
5 movie Perfect Storm. I mean it is just like
6 that...that was the first one that I saw"?

7 Did you tell Mr. Morrissey that?

8 A. Once again, sir, I don't recall telling, but
9 it definitely was like the movie Perfect Storm
10 because I was in the water. I was -- I was dying.
11 I was seeing death right in front of me.

12 Q. What did you see when you came out from
13 underneath the boat on that day, sir?

14 A. When? What do you mean, from the air
15 pocket?

16 Q. Correct.

17 A. What I recall when I was in that air po et,
18 I remember total darkness, total darkness. I'm
19 going around. There's an air pocket that I cou
20 breathe, and I thought for a minute I was safe ere
21 till I started smelling fume. The fume got me ery,
22 very dizzy.

23 I had been put under -- when I had my
24 surgery for my sinuses, my doctor gave me the

1 prescription to go to sleep before they put me o .

2 And he told me, "Amir, go to sleep." I
3 remember seeing my doctor above my head telling ,
4 "Amir go to sleep" at the same time the fumes ar
5 getting to me.

6 So I knew I was dead at that time. I ma :
7 the choice that either I'm going to die here or ,
8 under, swim under and go to the unknown, and to ,
9 that was -- that took a lot of courage to do tha
10 because I did not know how to swim. I did not w at
11 to let go of the safety of the objects that I wa
12 holding.

13 So I go under. I swim out, and I saw th
14 light from underneath, which was the daylight th : I
15 hadn't seen at that time. And I come up, and I ee
16 the two guys, Greg Chizhik and Zilberman, holdir to
17 the side of the boat. And I'm far away from the
18 boat. The boat is like ten, ten, 12, 15 yards, et
19 away from me. All I know is the boat -- I'm her
20 The boat is, like, by the -- by the wall over th ce.
21 (Witness indicating.)

22 Q. So the point at which you came up was a
23 distance of ten feet from the boat, --

24 A. I don't --